IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1818 OF 2005

Anita Atul Giri ...Petitioner

Versus

The State of Maharashtra & Ors ...Respondents

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Mr. Jayendra Khairnar, Advocate for Petitioner

Pushpa Diwan, Adv. for Respondent Nos. 1 to 4.

Mr. R.S. Khadapkar, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 22ND AUGUST, 2005

P. C.:-

1. Heard the learned advocate for the petitioner i.e. original accused, the learned advocate for the respondent No.1 i.e. original complainant and the learned A.P.P. for the State.

2. The learned advocate for the petitioner has stated that he is only pressing the prayer for quashing of process issued in C.C. No. 4251 of 2004 which is pending before the C.J.M. Kolhapur and he is not pressing any other prayers in the present writ petition. The learned advocate for the petitioner seeks liberty to file appropriate proceedings before the appropriate forum in respect of other prayers.

Liberty granted as prayed for. Thus, this petition is being decided only in respect of prayer for quashing of process in C.C. No.4251 of 2004, which is pending in the Court of learned Chief Judicial Magistrate, Kolhapur at Kolhapur. In the said case, process has been issued against the petitioner under Section 138 of Negotiable Instruments Act.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the petitioner prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer revision before the concerned Sessions Court. The learned advocate for the petitioner states that the necessary revision would be preferred within a period of five weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of five weeks from today. The learned advocate for the respondent No.1 i.e. original complainant fairly states that no objection would be

raised in respect of delay in filing revision before the learned Sessions Judge and the matter will be argued only on merits.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Writ Petition is disposed of.

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